

**IN THE UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF NEW HAMPSHIRE**

**COMMODITY FUTURES TRADING
COMMISSION, and
NEW HAMPSHIRE DEPARTMENT OF
STATE, BUREAU OF SECURITIES
REGULATION**

Plaintiffs,

v.

**CROMWELL FINANCIAL SERVICES, INC.,
PHILLIP TUCELLI, MICHAEL STARYK,
DENNIS GEE, RICHARD PELUCHETTE,
and RICHARD ASTERN,**

Defendants.

Civil Action No. _____

**COMPLAINT FOR INJUNCTIVE AND OTHER EQUITABLE RELIEF,
AND FOR CIVIL PENALTIES UNDER THE COMMODITY EXCHANGE ACT, AS
AMENDED, 7 U.S.C. §§ 1 ET SEQ.**

I. SUMMARY

1. Cromwell Financial Services, Inc. (“Cromwell”), which is located in Deerfield Beach, Florida, is an active Introducing Broker (“IB”) that is headed by Phillip Tuccelli (“Tuccelli”), and managed by Michael Stryk, III (“Stryk”), Dennis Gee (“Gee”), Richard Peluchette (“Peluchette”) and Richard Astern (“Astern”) (collectively “Defendants”). Cromwell solicits members of the public to trade in options on commodity futures contracts using false and misleading sales representations regarding the likelihood of profits therefrom and by downplaying or failing to discuss the substantial risks associated with trading therein.

2. Between January 1, 2002 and January 1, 2004 (the “relevant period”), Cromwell by and through its Associated Persons (“APs”) fraudulently solicited approximately 900

customers, including New Hampshire residents, to trade in options on commodity futures contracts in accounts held at two futures commission merchants (“FCMs”). As a consequence of engaging in such trading, these customers collectively incurred overall losses of approximately \$19 million.

3. During the relevant period, Cromwell employees, under the direct supervision of Defendants Tuccelli, Staryk, Gee, Peluchette and Astern, made false and materially misleading sales solicitations to potential customers and customers by, *inter alia*: (a) exaggerating the magnitude and likelihood of potential profit from trading in options on commodity futures contracts; (b) representing that their trade recommendations could result in large profits within short periods of time, while possessing information that their customers were actually losing money; (c) downplaying the risk of loss from trading in options on commodity futures contracts; and, (d) in light of the profit representations they were making, failing to advise such customers that more than 85% of Cromwell’s customers lost money trading in options on commodity futures contracts.

4. Defendants have engaged in acts and practices that constitute violations of the Commodity Exchange Act, as amended (“Act”), 7 U.S.C. § 1 *et seq.* (2002), and Regulations promulgated thereunder (“Commission Regulations”), 17 C.F.R § 1.1 *et seq.* (2004). Cromwell’s employees knew or recklessly disregarded the fact that the representations and omissions of material fact in Paragraph 3 above were false or acted in an extreme departure from the standards of ordinary care by making such representations or omitting material information. Consequently, these acts and practices violated Section 4c(b) of the Act, 7 U.S.C. § 6c(b) (2002), and Commission Regulation 33.10, 17 C.F.R. § 33.10 (2004). Because these violations by Cromwell employees were done within the scope of their employment, Cromwell is therefore

vicariously liable for those violations pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B) (2002).

5. During the relevant period, Defendants Cromwell, Tuccelli, Saryk, Gee, Peluchette and Astern failed to supervise diligently Cromwell employees' solicitations of prospective customers and customers. Defendants Cromwell, Tuccelli, Saryk, Gee, Peluchette and Astern failed either to develop or to implement an adequate program of supervision to detect and prevent Cromwell's employees from making misleading and fraudulent statements to prospective customers and customers concerning the likely profitability of and risks from trading in options on commodity futures contracts. As Commission registrants, Defendants Cromwell, Tuccelli, Saryk, Gee, Peluchette and Astern were required to diligently supervise the handling by Cromwell employees of all commodity interest accounts held by it. In failing to do so, Defendants Cromwell, Tuccelli, Saryk, Gee, Peluchette and Astern violated Commission Regulation 166.3, 17 C.F.R. § 166.3 (2004).

6. Defendant Tuccelli controlled Cromwell during the relevant period and either knowingly induced or did not act in good faith respecting the acts and practices of Cromwell's employees that constitute the violations of Section 4c(b) of the Act and Commission Regulation 33.10. Defendant Tuccelli is therefore liable as a controlling person for those acts and practices pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2002).

7. Since 1993, when Cromwell was first registered with the National Futures Association ("NFA") as an introducing broker ("IB"), it has been the subject of three regulatory actions by the NFA for violations of NFA rules by Cromwell employees, including those regarding sales solicitations. Defendant Tuccelli has been the subject of three NFA regulatory actions. Defendant Saryk has been the subject of two NFA actions. Defendant Gee has been

the subject of two NFA actions and three CFTC customer reparations Complaints. Defendant Peluchette has been the subject of one NFA arbitration, as well as actions by the Alberta Securities Commission and the Florida Department of Banking and Finance Division of Securities and Investor Protection. Defendant Astern has been named in one NFA action.

8. Accordingly, Plaintiffs Commodity Futures Trading Commission (“Commission” or “CFTC”) and the New Hampshire Secretary of State, Bureau of Securities Regulation (“Bureau”) bring this action pursuant to Sections 6c and 6d of the Act, 7 U.S.C. §§ 13a-1 and 13a-2 (2002), to enjoin the Defendants’ unlawful acts and practices and to compel their compliance with the Act. In addition, Plaintiffs seek disgorgement of the Defendants’ ill-gotten gains, restitution to customers, civil monetary penalties and such other relief as this Court may deem necessary or appropriate.

9. Unless restrained and enjoined by this Court, Defendants are likely to continue to engage in the acts and practices alleged in this Complaint, and similar acts and practices, as more fully described below.

II. JURISDICTION AND VENUE

10. The Act prohibits fraud in connection with the trading of commodity futures contracts and options on commodity futures contracts and establishes a comprehensive system for regulating the purchase and sale of commodity futures contracts and options on commodity futures contracts. This Court has jurisdiction over this action pursuant to Section 6c of the Act, 7 U.S.C. §13a-1 (2002), which authorizes the Commission to seek injunctive relief against any person whenever it shall appear to the Commission that such person has engaged, is engaging, or

is about to engage in any act or practice constituting a violation of any provision of the Act or any rule, regulation or order thereunder.

11. Section 6d(1) of the Act, 7 U.S.C. §13a-2 (2002), provides that whenever it shall appear to any State that the interests of the residents of the State have been, are being, or may be threatened or adversely affected because of such violations of the Act, the State may bring a suit in the district courts of the United States to enjoin such acts or practices and to enforce compliance with the Act, or to obtain such other and further relief as the Court deems appropriate.

12. Venue properly lies with this Court pursuant to Section 6c(e) of the Act, 7 U.S.C. § 13a(e) (2002), because the Defendants are found in, inhabit, or transact business in, among other places, this district, or the acts and practices in violation of the Act have occurred, are occurring or are about to occur within, among other places, this district. Specifically, Defendants: (1) solicit customers within this district; (2) make phone calls and send faxes, U.S. mail, e-mail and Federal Express packages to customers in this district; and (3) receive money from customers located within this district.

III. PARTIES

13. Plaintiff Commission is the independent federal regulatory agency responsible for administering and enforcing the provisions of the Commodity Exchange Act and the Regulations promulgated thereunder.

14. Plaintiff Bureau is the regulatory agency of the State of New Hampshire charged with administering and enforcing the New Hampshire Uniform Securities Act, N.H. REV. STAT. ANN. § 421-B (2004).

15. Defendant Cromwell Financial Services, Inc. is a Florida Corporation, incorporated in September 1992. It has been registered with the Commission as an IB since January 1993. During the relevant period, Cromwell operated pursuant to guarantee agreements with Universal Financial Holding Company (“UFHC”) and National Commodity Corporation, Inc. (“NCCI”), which are both registered FCMs. As a result, all of Cromwell’s customers during the relevant period maintained accounts at UFHC or NCCI. Cromwell’s main office is located in Deerfield Beach, Florida, and it also has branch offices located in Fort Lauderdale, Pompano Beach, and Boca Raton, Florida. Cromwell has been named in three separate actions by the National Futures Association (“NFA”) for violations of NFA Rules, including sales and solicitation fraud, using misleading promotional materials and failing to adequately supervise brokers. Cromwell has also been named in 34 separate CFTC reparations cases.

16. Defendant Philip Tuccelli currently resides in Deerfield Beach, Florida. He is the founder of Cromwell, and is Cromwell’s sole director and sole shareholder. Tuccelli has previously been registered with the Commission as an Associated Person (“AP”), but is not currently registered. Tuccelli manages Cromwell’s Deerfield Beach headquarters office.

17. Defendant Michael Staryk currently resides in Boca Raton, Florida. He is registered as an AP with Cromwell and is also Cromwell’s director of compliance.

18. Defendant Dennis Gee currently resides in Fort Lauderdale, Florida. He was registered as an AP with Cromwell until January 2004, and was the branch manager of Cromwell’s Fort Lauderdale branch office.

19. Defendant Richard Peluchette currently resides in Pompano Beach, Florida. He is currently registered as an AP with Cromwell, and has been continuously since 1996. Peluchette is the branch manager of Cromwell’s Boca Raton office.

20. Defendant Richard Astern currently resides in Lake Worth, Florida. He has been registered as an AP with Cromwell since 2001 and is currently the branch manager of Cromwell's Pompano Beach office.

III. STATUTORY AND REGULATORY BACKGROUND

21. A futures commission merchant ("FCM") is defined in Section 1a(20) of the Act, 7 U.S.C. § 1a(20) (2002), and Commission Regulation 1.3(p), 17 C.F.R. § 1.3(p) (2004), with certain qualifications, as an individual, association, partnership, corporation, or trust that is engaged in soliciting or in accepting orders for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market or derivatives transaction execution facility; and in or in connection with such solicitation or acceptance of orders, accepts any money, securities or property (or extends credit in lieu thereof) to margin, guarantee, or secure any trades or contracts that result or may result therefrom.

22. An introducing broker ("IB") is defined in Section 1a(23) of the Act, 7 U.S.C. § 1a(23) (2002), with certain qualifications, as any person, other than an associated person of a FCM, engaged in soliciting or in accepting orders for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market or derivatives transaction execution facility who does not accept any money, securities, or property (or extend credit in lieu thereof) to margin, guarantee, or secure any trades or contracts that result or may result therefrom.

23. An associated person ("AP") is defined in Section 4k of the Act, 7 U.S.C. § 6k (2002), and Commission Regulation 1.3(aa)(1) and (2), 17 C.F.R. § 1.3(aa)(1) and (2) (2004), with certain qualifications, as a natural person associated with any FCM or IB, as a partner, officer, employee, consultant, or agent (or any person occupying a similar status or performing

similar functions), in any capacity that involves: (i) the solicitation or acceptance of customers' or options customers' orders; or (ii) the supervision of any person or persons so engaged.

III. FACTS

A. Cromwell Employees Misrepresented the Magnitude and Likelihood of Potential Profits and Downplayed the Risk of Loss to Customers and Potential Customers

24. During the relevant period, Defendants employed, *inter alia*, Jawhar "Joe" Sadalla Badran and Patricia Hyler in the Deerfield Beach headquarters, Theodore Jacobs and Louis Ferruggia in the Fort Lauderdale branch office, Jason Daubenmire, Scott Piergrossi, Jeff Dunetz and Marc Goodman in the Boca Raton branch office, and Fred McGrane in the Pompano Beach branch office (collectively "Cromwell employees") as APs for the purpose of soliciting prospective customers and customers to trade in options on commodity futures contracts.

25. Cromwell employees, including those listed in Paragraph 24 above, solicited prospective customers and customers by making cold-calls to individuals identified on lead-lists purchased from unrelated third parties. During these telephone solicitations, Cromwell employees invariably recommended that customers enter into trades in particular options on commodity futures contracts, such as options on heating oil futures or options on natural gas futures. Cromwell employees, including those above, were made personally responsible for any and all deficits in customers' accounts, whether due to margin calls, trading losses or any other circumstance. Thus, the employees were aware that most of Cromwell customers were not acquiring profits from trading through Cromwell. Moreover, Cromwell employees, including those above, were also required to keep a log of all phone calls or contacts with customers which mandated that they note any discussion of the value of the customer's account.

26. When soliciting prospective customers and customers, Cromwell employees, including those listed in Paragraph 24, often made representations of material fact such as the following:

- a. Customers could easily double or triple their money within a couple weeks;
- b. The risk of customers losing their investment was very low;
- c. Certain recommended trades were highly likely to profit;
- d. By reinvesting after they had lost money, customers would be able to recoup all their losses and make additional money.

These representations were false or misleading, in part, because:

- e. the market in options on commodity futures contracts is highly speculative and the likelihood of realizing the described profits within the described time periods was remote at best;
- f. the Cromwell APs who made such claims had customers whom did not realize the described profits within the described time periods;
- g. the likelihood that any of the customers would actually profit from investing with Cromwell was substantially lower due to the very high commission fees, often as high as \$230.00 per contract traded; and
- h. the overwhelming majority — at least 85% — of Cromwell customers closed their accounts at a loss; and

27. During the relevant period, Cromwell employees, including those listed in Paragraph 24, advised prospective customers and customers to obtain funds from any available source, even advising them to take money from more secure investments, such as stocks or mortgages, to invest in options on commodity futures contracts. In advising customers to obtain

funds from such secure investments, Cromwell employees represented that the investments they were recommending were more likely to profit than those other investments.

28. During the relevant period, Cromwell employees, including those listed in Paragraph 24, solicited customer funds by providing specific trade recommendations. In fact, most trades placed on behalf of Cromwell customers were based on the trade recommendations of Cromwell employees.

29. Cromwell employees often solicited customers with assertions that known or expected market conditions, including known weather events and seasonal trends, could result in substantial profits. As part of their sales solicitations, Cromwell employees regularly faxed or mailed previously published articles to prospective customers and customers, which were often several months old. Cromwell employees, including those identified in Paragraph 24, represented that these published articles provided support for their trading recommendations and that by trading in options on commodity futures contracts, prospective customers and customers could expect to make money on the basis of these known market conditions.

30. Cromwell employees knew or were reckless in making the representations described in Paragraphs 26 through 29.

B. Cromwell Employees Failed to Disclose that the Vast Majority of Cromwell's Customers Lost Money Trading

31. Cromwell employees, including those listed in Paragraph 24 above, made representations to potential customers and customers that they could earn substantial profits trading options on commodity futures contracts, including the representations described in Paragraphs 26 through 29 of this Complaint. While making these representations of "rosy" profit projections, Cromwell employees never disclosed to potential customers or customers that

at least 85% of Cromwell's customers closed their accounts at a loss, and that their own customers were losing substantial amounts of their investment.

32. Moreover, Cromwell's employees and its principals, including the defendants, were aware that customers were losing money and relying on these representations because they had received of numerous customer complaints and formal reparations proceedings were brought against many of them by customers that alleged fraud. Cromwell itself was subject to 34 reparations proceedings, while each of the defendants were subject to, at a minimum, 3 separate and distinct reparations proceedings.

C. Defendant Tuccelli was the Controlling Person of Cromwell, and Defendants Cromwell, Tuccelli, Staryk, Gee, Peluchette and Astern were Responsible for Supervising its Employees

33. During the relevant period, Tuccelli was the founder and sole shareholder of Cromwell. He had also been registered with the NFA as a principal of Cromwell since 1992. Tuccelli was also Cromwell's sole Director and reported to the Board regarding its day-to-day operations. As Cromwell's Director, Tuccelli had responsibility to, *inter alia*: (1) develop, implement and distribute Cromwell's sales promotion materials; (2) oversee the administration of Cromwell's branch managers and the supervisors of its sales, trading, compliance, marketing, recruitment and training functions; (3) prepare sales scripts for AP education and training; and (4) monitors trade recommendations with Cromwell's Branch Managers and Supervisors.

34. Cromwell, as a Commission registrant during the relevant period, was responsible for developing and implementing an adequate supervisory system to ensure that its employees complied with the rules, regulations and by-laws of the NFA, as well as with the Act and Commission Regulations.

35. Tuccelli managed and continues to manage the daily operations of Cromwell's Deerfield Beach headquarters office. As the Deerfield Beach headquarters office's manager, Tuccelli had direct supervisory responsibility over the APs and employees at that location. He was also responsible for monitoring the APs and employees' activities and ensuring their compliance with the rules, regulations and by-laws of the NFA, as well as with the Act and Commission Regulations.

36. Saryk is currently, and was during the relevant period, Cromwell's Compliance Officer. Saryk was therefore responsible for overseeing Cromwell's compliance program. As the Compliance Officer, Saryk's duties and responsibilities included, *inter alia*: (1) managing the receipt and disposition of all customer Complaints; (2) conducting branch office visits and on-site internal audits; and (3) overseeing any internal monitoring program of AP sales calls and counseling APs and/or Branch Managers in those instances where solicitations varied from approved scripts. Thus he was responsible for monitoring the APs and employees' activities and ensuring their compliance with the rules, regulations and by-laws of the NFA, as well as with the Act and Commission Regulations.

37. Defendants Gee, Peluchette and Astern were Branch Managers of Cromwell's Fort Lauderdale, Boca Raton, and Pompano Beach branches, respectively, throughout the relevant period. As Branch Managers, each had direct, supervisory responsibility over the APs and employees of their respective branches. Defendants Gee, Peluchette and Astern were also responsible for communicating with Tuccelli regarding trade recommendations made by Cromwell's APs and employees. Thus they were responsible for monitoring the APs and employees' activities and ensuring their compliance with the rules, regulations and by-laws of the NFA, as well as with the Act and Commission Regulations.

38. Defendants Cromwell, Tuccelli, Saryk, Gee, Peluchette and Astern failed to develop or implement an adequate system of supervision to ensure that Cromwell's APs and employees did not make fraudulent statements and/or omissions while soliciting prospective customers and customers to trade in options on commodity futures contracts. Consequently, throughout the relevant period, Cromwell APs and employees repeatedly made the fraudulent statements and/or omissions outlined in Paragraphs 26 through 32 of this Complaint while soliciting prospective customers and customers to trade in options on commodity futures contracts.

39. During the relevant period, as a general rule, Cromwell recorded only order confirmation conversations with customers and not the telephone sales solicitations made by its APs and employees. These order confirmation conversations were conducted according to a strict script that included such leading questions as "I want to ensure that you have not received any promises of profits, guarantees, or high sales pressure for buying the positions, or for signing any of the forms. Have you?" Furthermore, these order confirmation conversations were always conducted after Cromwell APs had used fraudulent sales pitches, as described above in Paragraphs 26 through 29, to solicit the customer, and were conducted at a rapid pace, including only a brief discussion of the trade that the customer was placing. Multiple customers complained that they were coached on how to answer these questions. Based on this coaching customers understood that if they did not answer these questions appropriately, the customer would be unable to take advantage of the investment opportunities about which the APs had just informed them.

40. During the relevant period, Defendants Cromwell, Tuccelli, Saryk, Gee, Peluchette and Astern failed to screen prospective employees and APs to determine the nature or

extent of the supervision each prospective AP would require. Furthermore, Defendants openly solicited APs who had previously worked at IBs that had been shut down for sales practice fraud. Similarly, Defendant Staryk, who had worked for one such IB, Commonwealth Financial Group, Inc., and who had also been named as a respondent in a 1999 NFA action in which he was charged with failure to supervise, acted as Cromwell's compliance director throughout the relevant period.

**IV. VIOLATIONS OF THE COMMODITY EXCHANGE ACT
AND COMMISSION REGULATIONS**

Count One

**Violations of Section 4c(b) of the Act, , 7 U.S.C. § 6c(b) (2002),
and Commission Regulation 33.10, 17 C.F.R. § 33.10 (2004):
Fraud in Connection with Options on Commodity Futures Contracts
(against Defendants Cromwell and Tuccelli)**

41. The allegations set forth in Paragraphs 1 through 40 are hereby realleged and incorporated herein.

42. Section 4c(b) of the Act, 7 U.S.C. § 6c(b) (2002), and Commission Regulation 33.10, 17 C.F.R. § 33.10 (2004), make it unlawful for any person directly or indirectly to cheat or defraud or attempt to cheat or defraud any other person; to make or cause to be made to any other person any false report or statement thereof, or cause to be entered for any person any false record thereof; to deceive or attempt to deceive any other person by any means whatsoever in or in connection with an offer to enter into, the entry into, the confirmation of the execution of, or the maintenance of, any commodity option transaction.

43. Cromwell employees, including, but not limited to those identified in Paragraph 24 above, violated Section 4c(b) of the Act, 7 U.S.C. § 6c(b) (2002), and Commission Regulation 33.10, 17 C.F.R. § 33.10 (2004), in connection with transactions in options on

commodity futures contracts by making material misrepresentations and omissions of material facts as described in Paragraphs 26 through 32 above.

44. Because the acts and omissions of Cromwell's employees which constitute violations of Section 4c(b) of the Act, 7 U.S.C. § 6c(b) (2002), and Commission Regulation 33.10, 17 C.F.R. § 33.10 (2004), were done within the scope of their employment, Cromwell is also liable for those violations pursuant to Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B) (2002).

45. During the relevant period, Tuccelli, as principal and manager of Cromwell, directly and indirectly controlled Cromwell and did not act in good faith or knowingly induced, directly or indirectly, the acts and omissions constituting Cromwell's violations described in this Complaint. Tuccelli is therefore liable for Cromwell's violations pursuant to Section 13(b) of the Act, 7 U.S.C. § 13c(b) (2002).

46. Each material misrepresentation or omission made during the relevant period, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of Section 4c(b) of the Act, 7 U.S.C. § 6c(b) (2002), and Commission Regulation 33.10, 17 C.F.R. § 33.10 (2004).

Count Two

Violations of Commission Regulation 166.3, 17 C.F.R. § 166.3 (2004): Failure to Diligently Supervise (against all Defendants)

47. The allegations in Paragraphs 1 through 40 are hereby realleged and incorporated herein.

48. Commission Regulation 166.3, 17 C.F.R. § 166.3 (2004), requires each Commission registrant, except an AP who has no supervisory duties, to diligently supervise the

handling of all commodity interest accounts carried, operated, advised or introduced by the registrant and all other activities of its partners, officers, employees and agents relating to its business as a Commission registrant.

49. Defendants Cromwell, Tuccelli, Saryk, Gee, Peluchette and Astern violated Commission Regulation 166.3, 17 C.F.R. § 166.3 (2004), because they allowed Cromwell's APs to make material misrepresentations and omissions of material facts as described in Paragraphs 26 through 32 above.

50. Each material misrepresentation or omission made during the relevant period, including but not limited to those specifically alleged herein, is alleged as a separate and distinct violation of Commission Regulation 166.3, 17 C.F.R. § 166.3 (2004).

V. RELIEF REQUESTED

WHEREFORE, plaintiffs respectfully request that this Court, as authorized by Section 6c of the Act, 7 U.S.C. §13a-1, and pursuant to its own equitable powers:

A. Find that:

a) Defendants Cromwell and Tuccelli violated Section 4c(b) of the Act, 7 U.S.C. § 6c(b) (2002), and Commission Regulation 33.10, 17 C.F.R. § 33.10 (2004);

b) Defendants Cromwell, Tuccelli, Saryk, Gee, Peluchette and Astern violated Commission Regulation 166.3, 17 C.F.R. § 166.3 (2004).

B. Enter an order of permanent injunction prohibiting the Defendants and any other person or entity associated with them, including any successor thereof, from:

1. Engaging in conduct in violation of Section 4c(b) of the Act, 7 U.S.C. § 6c(b) (2002), and Commission Regulations 33.10 and 166.3, 17 C.F.R. §§ 33.10 and 166.3 (2004);
 2. engaging in any activity relating to commodity interest trading, including but not limited to, soliciting, accepting or receiving funds, revenue or other property from any person, giving advice for compensation, or soliciting prospective customers, related to the purchase and sale of any commodity futures or options on commodity futures contracts.
- C. Enter an order directing the Defendants and any successor thereof, to disgorge, pursuant to such procedure as the Court may order, all benefits received from the acts or practices which constitute violations of the Act or Regulations, as described herein, and interest thereon from the date of such violations;
- D. Enter an order directing the Defendants to make full restitution to every customer whose funds were received by them as a result of acts and practices which constituted violations of the Act and Regulations, and described herein, including pre-judgment interest;
- E. Enter an order assessing a civil monetary penalty against each Defendant in the amount of not more than the higher of \$120,000 or triple the monetary gain to each Defendant for each violation by the Defendants of the Act or Regulations;
- F. Enter an order directing that the Defendants make an accounting to the Court of all their assets and liabilities, together with all funds they received from and paid to customers and other persons in connection with options on commodity futures transactions or purported options on commodity futures transactions, and all

disbursements for any purpose whatsoever of funds received from commodity clients, including salaries, commissions, fees, loans and other disbursements of money and property of any kind, from, but not limited to January 1, 2002 to and including the date of such accounting;

- G. Such other and further remedial ancillary relief as the Court may deem appropriate.

Dated: June 12, 2005

Respectfully submitted,

____/s/ Joseph Konizeski_____
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